

96TH CONGRESS } HOUSE OF REPRESENTATIVES { REPT. 96-127
1st Session } { Part 1

INTELLIGENCE AND INTELLIGENCE-RELATED ACTIVITIES AUTHORIZATION ACT, FISCAL YEAR 1980

MAY 8, 1979.—Ordered to be printed

Mr. BOLAND, from the Permanent Select Committee on Intelligence, submitted the following

R E P O R T

together with
ADDITIONAL VIEWS

[To accompany H.R. 3821]

The Permanent Select Committee on Intelligence, to whom was referred the bill (H.R. 3821) to authorize appropriations for fiscal year 1980 for intelligence and intelligence-related activities of the U.S. Government, the Intelligence Community Staff, the Central Intelligence Agency Retirement and Disability System, to authorize supplemental appropriations for fiscal year 1979 for the intelligence and intelligence-related activities of the United States Government, and for other purposes, having considered the same, reports favorably thereon with an amendment and recommends that the bill as amended do pass.

PURPOSE

This bill would:

- (1) Authorize appropriations for fiscal year 1980 for (a) intelligence and intelligence-related activities of the U.S. Government, (b) the Intelligence Community Staff, and (c) the Central Intelligence Agency Retirement and Disability System.
- (2) Authorize the personnel ceilings on September 30, 1980 for (a) intelligence and intelligence-related activities, and (b) the Intelligence Community Staff.
- (3) Authorize supplemental appropriations for fiscal year 1979 for intelligence and intelligence-related activities of the U.S. Government.

(1)

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OVERALL SUMMARY OF COMMITTEE ACTION

[In millions of dollars]

	Fiscal year 1979	Budget request	Committee recommends	Committee recommended change
Intelligence activities.....	12.0	12.6	11.5	-1.1
Intelligence community staff.....	43.5	51.6	51.6	
CIARDS.....				
Total.....				

OVERALL PERSPECTIVE ON THE INTELLIGENCE BUDGET

Committee intent

Last year, during its consideration of the fiscal year 1979 intelligence and intelligence-related activities authorization act, the committee voted not to disclose publicly any of the amounts authorized for these activities. The committee concluded that disclosure would not be in the public interest. It made its determination only after several days of public hearings and after further consideration within the committee itself. In making its determination, however, the committee recognized that "this is a judgment that the committee will have to revisit from time to time to determine whether a reassessment of its position is required."

The committee has reconsidered the question of public disclosure of various intelligence budget figures and has again concluded that disclosure is not in the public interest. By itself, a single intelligence budget total would probably not harm intelligence activities or capabilities. Such a number, however, would be meaningless in a vacuum. It is unclear what number would be used: the total National Foreign Intelligence Program? DOD Intelligence-Related Activities? Authorization? Appropriation? In any case, the description which would be necessary to make the budget figure comprehensible would itself be highly sensitive. It is in this context that the committee fears that budget disclosure can be harmful and inconsistent with the primary purpose of secrecy in intelligence matters.

Intelligence activities and capabilities are inherently fragile. Unlike weapons systems, which can be countered only by the development of even more sophisticated systems developed over a long period, intelligence systems are fragile. Often they can be countered or frustrated rapidly simply on the basis of knowledge of their existence. Thus budget disclosure might well mean more to this country's adversaries than to any of its citizens. Further, this information could then be used to frustrate U.S. intelligence missions.

The committee recognizes that the best argument in favor of budget disclosure is public accountability. Because it feels strongly, however, that the public does not wish congressional oversight to frustrate legitimate intelligence activities, but rather to guarantee their proper course, the committee has again voted against disclosure of any intelligence budget information. The committee has and will continue to make a consistent effort to conduct its oversight and legislative proceedings in public in order to provide the public with the assur-

ance that intelligence activities are receiving appropriate Congressional scrutiny.

The classified Schedule of Authorizations and the detailed explanation found in the annex to this public report contain a thorough discussion of all budget issues considered by the committee and are available to all members of the House. The Schedule of Authorizations lists the amounts of dollars and personnel ceilings for all the intelligence and intelligence-related programs authorized by the bill. These are directly incorporated into, and are integral to, the bill itself. It is the intent of the committee that all intelligence programs discussed in the annex to this report be conducted in accordance with the guidance and limitations contained therein.

Scope of committee review

The national foreign intelligence program budget consists of resources of the following departments, agencies and other elements of the Government: (1) the Central Intelligence Agency; (2) the Department of Defense; (3) the Defense Intelligence Agency; (4) the National Security Agency; (5) the Departments of the Army, Navy and Air Force; (6) the Department of State; (7) the Department of Treasury; (8) the Department of Energy; (9) The Federal Bureau of Investigation; (10) the Drug Enforcement Administration; and (11) the Intelligence Community Staff of the Director of Central Intelligence. The Department of Defense Intelligence-Related Activities (IRA) are a diverse array of reconnaissance, surveillance and target acquisition programs which are a functional part of the basic force structure and provide direct information support to combat operations. IRA, as defined by the Chiefs of Staff and Department of Defense, include those activities outside the defense intelligence program which respond to operational command tasking for time sensitive information as well as to national command, control and intelligence requirements.

Beginning in late January 1979, the Program and Budget Authorization Subcommittee conducted a series of hearings which ran through mid-March. The budget hearings involved a total of more than 50 hours of testimony with witnesses from each major intelligence and intelligence-related program. These budget hearings resulted in additional written responses to several hundred questions.

OVERALL COMMITTEE FINDINGS AND RECOMMENDATIONS

The administration requested a substantial increase for fiscal year 1980 over the amount Congress appropriated for intelligence in fiscal year 1979. In part the increase resulted from inflation, in part from the need to procure new types of equipment to provide better intelligence support to combat units, in part to improve or upgrade existing intelligence systems and in part to initiate new systems. The committee is convinced that U.S. intelligence agencies are performing a vital service for the national security. The committee also finds, however, certain shortcomings in the management and conduct of certain of the nation's intelligence activities. Recommendations for making improvements in these areas are contained in the classified annex to this report and the committee will be pursuing these and other related issues further dur-

ing the coming months. In general, the committee supports the level of effort requested by the President in his budget.

The committee was not convinced, however, that the total amount requested for fiscal year 1980 was fully warranted. Therefore, the committee has recommended deferral of certain proposals and the deletion of others, while a few items were increased. The overall impact of the recommendation is a reduction in the request. In the committee's view the recommended authorization for intelligence and intelligence-related activities in this bill represents a reasonable balance between needed capabilities and prudent cost.

COMMITTEE AMENDMENT

The committee amendment will increase the fiscal year 1980 authorization for the Federal Bureau of Investigation's program to counter terrorism in the United States by \$1.8 million. The administration requested \$11.6 million for this program and the committee's amendment will increase funding to \$13.4 million.

The amendment is as follows:

On page 3, after line 9, insert the following new subsection:

(d) Of the amounts authorized under subsection (a) (9), there is hereby authorized to be appropriated for fiscal year 1980, for the conduct of the activities of the Federal Bureau of Investigation to counter terrorism in the United States: \$13,400,000.

Background

The FBI has the primary responsibility for preventing terrorism in the United States. The committee believes that this is an important responsibility and deserves continuing Executive and Congressional support. The committee was concerned, therefore, when the fiscal year 1980 budget submitted by the President reflected a reduction of \$1.8 million from the prior year's appropriation for the Bureau's counterterrorism activities.

The domestic security and terrorism program, redesignated in fiscal year 1980 as the terrorism program, has been considerably reduced in size over the past 5 years. Many of the reductions have resulted from the implementation of the Attorney General's Guidelines which shifted the focus of investigations to groups known to engage in terrorist activities. Others have come about because the FBI, through its undercover operations, has been successful in defusing potential acts of terrorism. The committee believes, however, that a reasonable level of vigilance must be maintained and that the reduction proposed by the administration for fiscal year 1980 limits the continuation of an effective counterterrorism program. Accordingly, the committee is recommending the addition of \$1.8 million which will restore the program to the amount appropriated for fiscal year 1979.

The proposed addition of \$1.8 million will be used to retain nine personnel spaces in the Bureau's Headquarters Management, 2 spaces in the Terrorism Research and Bomb Data Unit, and 74 spaces in FBI field offices nationwide. The personnel in headquarters management are needed to coordinate field activities and to perform liaison functions with local agencies in terrorist situations or potential terrorist

problems at public activities such as the Winter Olympics at Lake Placid, N.Y. Those assigned to the Terrorist Research and Bomb Data Unit will be responsible for maintaining the Bureau's data bank on terrorist weapons and methods of operations. The field personnel will be those assigned to carry out the operational FBI counterterrorism program to include both undercover operations, the use of informants and investigative activities. These additional 85 personnel are, in the committee's view, essential to the Bureau's ability to prevent terrorist activities by exposing or apprehending terrorists before they can act again.

SECTION-BY-SECTION ANALYSIS

TITLE I—INTELLIGENCE AND INTELLIGENCE-RELATED ACTIVITIES

Committee recommendations

With the exception of the FBI terrorism program, details of the committee's recommendations with respect to the amounts to be appropriated for intelligence and intelligence-related activities and personnel ceilings covered under this title for fiscal year 1980 are contained in a classified Schedule of Authorizations to the bill and the classified annex to this report.

TITLE II—INTELLIGENCE COMMUNITY STAFF (ICS)

Authorization request

Intelligence Community (IC) Staff funding of \$12.6 million and 245 positions for fiscal year 1980 was requested to provide the Director of Central Intelligence (DCI) the staff assistance required to carry out his intelligence community responsibilities. The IC Staff is composed of a permanent cadre, detailed community personnel, and contract hirees. The committee supports the DCI in the execution of his responsibilities to develop, review and approve the national foreign intelligence program budget, to evaluate the performance of foreign intelligence activities, and to develop issues, goals and other required guidance for the intelligence community.

Committee recommendation

The committee recommends an appropriation in the amount of \$11.5 million for the intelligence community staff in fiscal year 1980. This is a net reduction of \$1.1 million from the fiscal year 1980 budget request.

For fiscal year 1980, the committee recommends a personnel strength not exceeding 245 full-time employees as of September 30, 1980. This is the number which the administration has requested.

The Intelligence Community staff is now made up of personnel who are permanent employees of the staff and others who are detailed for several years from various intelligence elements. The purpose of section 201(b) is to authorize this staffing approach and to require that detailed employees represent all appropriate elements of the Government, including those engaged intelligence-related activities, whose representation on the Intelligence Community Staff has been inadequate in the past.

Section 201(b)(3) requires that detailed personnel be on a reimbursable basis except for temporary situations. The staff has grown rapidly in recent years and has reached a size that the committee feels is sufficient for the duties which the staff performs. This provision is intended to ensure that its ranks are not swelled by nonreimbursable detailees.

Section 201(c) provides the Director of Central Intelligence with authority to pay and manage the personnel of the Intelligence Community Staff because the staff is not otherwise authorized in law. However, it is the committee's intent that in the case of detailed personnel, the DCI's authority to discharge personnel shall only extend to discharging detailed personnel from service at the Intelligence Community Staff and not from Federal employment or military service.

Section 202 removes wording in the Intelligence and Intelligence-Related Activities Authorization Act for fiscal year 1979 (Public Law 95-370) which could be viewed as creating permanent legislative authority for the Intelligence Community Staff. The committee did not intend to create such permanent authority. Therefore, section 202 removes these provisions in the previous act and replaces them, on a one year basis, with sections 201(b)(3) and 201(c) of the fiscal year 1980 bill.

Committee recommended change

External Research and Analysis Projects, - \$1.1 million

The Intelligence Community Staff External Research and Analysis Projects request for \$3.1 million has significantly increased over the past 2 years. The increase from fiscal year 1978 to fiscal year 1980 is \$1.2 million or 63 percent in 2 years. Last year, the committee supported a large manpower increase to the Intelligence Community Staff amounting to a 75-position increase or a 44-percent increase in 1 year. With this increase in staff manpower, the committee questions the increasing requirements for contractor assistance. The committee believes that the External Research and Analysis Projects growth is not justified and recommends a \$1.1 million reduction to the fiscal year 1980 request.

TITLE III—CENTRAL INTELLIGENCE AGENCY RETIREMENT AND DISABILITY SYSTEM

	<i>Millions</i>
Central Intelligence Agency request.....	\$51.6
Committee recommended change.....	-----
Committee recommendation.....	51.6

Authorization request

The Central Intelligence Agency requested \$51.6 million for fiscal year 1980 for the CIA Retirement and Disability System (CIARDS). The CIA Retirement Act of 1964 for Certain Employees (Public Law 88-643, October 13, 1964) authorized the establishment of CIARDS for a limited number of Agency employees and authorized the establishment and maintenance of a fund from which benefits would be paid to qualified beneficiaries.

The requested CIARDS funds will finance:

- (1) Interest on the unfunded liability;
- (2) Cost of annuities attributable to credit allowed for military service;
- (3) Normal cost of benefits not met by employee and employer contributions;
- (4) The increase in unfunded liability resulting from liberalized benefits and the October 1976 and 1977 Federal pay raise.

The benefits structure of CIARDS is essentially the same as for the civil service retirement system with only minor exceptions. These exceptions are: (a) annuities are based upon a straight 2 percent of high 3-year average salary for each year of service, not exceeding 35; (b) under stipulated conditions a participant may retire with the consent of the Director, or at his direction be retired at age 50 with 20 years of service, or a participant with 25 years of service may be retired by the Director regardless of age; and (c) retirement is mandatory at age 65 for personnel in grade GS-18 and above, and at age 60 for personnel in grades GS-17 and below, except that the Director may, in the public interest, extend service up to 5 years.

Annuities to beneficiaries are provided exclusively from the CIARDS Fund maintained through: (a) contributions, currently at the rate of 7 percent, deducted from basic salaries of participants designated by the Director; (b) matching Agency (employer) contributions from the appropriation from which salaries are paid, based on the actual rate of contributions received from participants; (c) transfers from the civil service retirement and disability fund representing employee and matching employer contributions for service of Agency employees prior to the date of their participation in the system, and contributions for service of integrated Agency employees included in the System following termination of integrated status; (d) income on investments in U.S. Government securities; and (e) beginning with 1977, direct appropriations consistent with the provisions of Public Law 94-552 (enacted October 17, 1976).

Committee recommendation

The committee recommends appropriation of \$51,600,000, which is the full amount requested for the CIA retirement and disability fund for fiscal year 1980.

**TITLE IV—SUPPLEMENTAL AUTHORIZATION,
FISCAL YEAR 1979**

Committee recommendation

Details of the committee's recommendation with respect to the amounts to supplement fiscal year 1979 authorizations under this title are contained in the classified Schedule of Authorizations to accompany this bill and the classified annex to this report.

TITLE V—TECHNICAL PROVISIONS

Title V will provide an authorization for any subsequent pay or other benefits raise affecting federal employees falling within the scope of the personnel ceilings and amounts in this bill. This provision eliminates the need for a supplement authorization which might other-

wise be required to extend benefits increased under some general personnel legislation to personnel within the scope of this bill.

COMMITTEE POSITION

On May 3, 1979, the Permanent Select Committee on Intelligence, a quorum being present, approved the bill and ordered it favorably reported by a vote of 9 yes, 0 no.

OVERSIGHT FINDINGS

With respect to clause 2(1)(3)(A) of rule XI of the House of Representatives, the committee has held extensive hearings regarding the nature and conduct of the intelligence and intelligence-related activities of the U.S. Government in preparing this legislation. This review is outlined under the scope of the committee review section of the report. A wider range of recommendations regarding intelligence programs and their management has been included within the classified annex of this report.

FISCAL YEAR COST PROJECTION

With respect to clause 2(1)(3)(B) of Rule XI of the House of Representatives and Section 308(a) of the Congressional Budget Act of 1974, this legislation does not provide new budget authority or tax expenditures. The committee has attempted pursuant to clause 7(a)(1) of Rule XIII of the Rules of the House of Representatives to ascertain the outlays which will occur in fiscal year 1980 and the 5 years following if these amounts are appropriated. These estimates, which agree with those made by the Intelligence Community Staff, are contained in the classified annex. The committee's estimates are in accordance with those of the executive branch.

CONGRESSIONAL BUDGET OFFICE ESTIMATE

With respect to clause 2(1)(3)(C) of Rule XI of the House of Representatives, the committee has received no report from the Congressional Budget Office.

RECOMMENDATIONS OF THE COMMITTEE ON GOVERNMENT OPERATIONS

With respect to clause 2(1)(3)(D) of Rule XI of the House of Representatives, the committee has not received a report from the Committee on Government Operations pertaining to the subject of this bill.

INFLATION IMPACT STATEMENT

Pursuant to clause 2(1)(4) of Rule XI of the House of Representatives, the committee has attempted to determine the inflationary impact of the bill.

The committee finds no adequate method to identify the inflationary impact of the present legislation. Further, the bill does not provide specific budget authority but rather authorizations for appropriation. Hence, any inflationary impact would depend on the amounts actually appropriated. Despite these limitations, the committee believes that

the legislation would not be inflationary in that the programs authorized do not require materials, production capacity or other economic resources which are in short supply.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3 of Rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, existing law in which no change is proposed is shown in roman) :

**SECTION 201 OF THE INTELLIGENCE AND INTELLIGENCE-RELATED
ACTIVITIES AUTHORIZATION ACT FOR FISCAL YEAR 1979**

TITLE II—INTELLIGENCE COMMUNITY STAFF

SEC. 201. (a) There is authorized to be appropriated for the Intelligence Community Staff for fiscal year 1979 the sum of \$12,700,000 to provide the support necessary to permit the Director of Central Intelligence to fulfill his responsibility for directing the substantive functions and managing the resources for intelligence activities.

(b) For fiscal year 1979 the Intelligence Community Staff is authorized an end strength ceiling of two hundred and sixty-nine full-time employees. Such personnel may be permanent employees or employees on detail from other elements of the United States Government so long as they are properly counted within the ceiling and there is a mix of positions to allow appropriate representation from elements of the United States Government engaged in intelligence and intelligence-related activities. [Any employee who is detailed to the Intelligence Community Staff from another element of the United States Government shall be detailed on a reimbursable basis, except that an employee may be detailed on a nonreimbursable basis for a period of less than one year for performance of temporary functions as required by the Director of Central Intelligence.]

[(c) Except as provided in subsection (b) and until otherwise provided by law, the activities of the Intelligence Community Staff shall be governed by the Director of Central Intelligence in accordance with the provisions of the National Security Act of 1947 (50 U.S.C. 401 et seq.) and the Central Intelligence Agency Act of 1949 (50 U.S.C. 403a-403j).]

ADDITIONAL VIEWS OF CONGRESSMAN ROMANO L.
MAZZOLI

I fully supported the committee's decision for the fiscal year 1980 Intelligence authorizations contained in the classified annex of this report. I believe that the budget decisions reflected there are sound.

However, I am concerned that the committee failed to authorize the disclosure of the aggregate appropriations figure for the fiscal year 1980 National Foreign Intelligence Program (NFIP).

During full committee consideration of the 1980 intelligence budget, I moved that the committee take the first step and disclose this aggregate appropriations figure. This motion was defeated.

This issue was the focus of hearings held by our House Select Committee on Intelligence on January 24 and 25, 1978. It was also addressed by the Senate Committee to Study Intelligence Activities (the Church committee), the House Select Committee on Intelligence (the Pike committee), the Commission on CIA Activities Within the United States (the Rockefeller Commission), and the Senate Select Committee on Intelligence.

With the exception of the House Intelligence Committee, each of these groups has recommended that the total NFIP budget figure be disclosed.

At the House Intelligence Committee's 1978 hearings, Director of the Central Intelligence Agency, Admiral Stansfield Turner said:

Since my testimony last April before the Senate Select Committee on Intelligence on the subject of releasing the Intelligence Community's aggregate budget figure, I have re-examined the question and discussed the situation with members of the National Foreign Intelligence Board. I am prepared today to essentially reiterate my Senate testimony in not objecting to the release of a single, inclusive figure.

In a letter to me dated April 20, 1979, Admiral Turner reaffirmed this position.

In my opinion, disclosure of the aggregate intelligence budget would not be different than disclosure of the aggregate defense budget in terms of risks to national security. It would not harm the intelligence community nor diminish America's national security, and it would help maintain, in Admiral Turner's words, our "free and open society".

I would like to emphasize my further agreement with Admiral Turner and others that we disclose only the aggregate budget figure. Specific intelligence activities could be compromised or undermined by the disclosure of specific budget figures.

To answer the thoughtful argument that disclosure of even partial NFIP appropriations figures is unwise and would lead to further disclosures which could damage the nation's intelligence effort, I cite the following from the Church Committee report:

(10)

The Committee agrees that there will be pressure for more detailed revelations, but the Committee views such pressure as a healthy sign of democracy. If a decision is made not to disclose further information, disclosure can be resisted as successfully in the future as disclosure has been resisted in the past.

Most importantly, I believe the disclosure of a single aggregate figure would be an important step in creating a presumption of openness in government which lies at the heart of our free and open society.

However, I realize that intelligence activities by their nature are, and must be, confidential and often secret activities. Thus, there is a lively tension between necessary government secrecy and a free and open society.

Striking the balance between these two concepts is a major, and perhaps the most important, part of the work of the House Intelligence Committee.

Indeed, Section 3 of H. Res. 658 which established the Committee in 1977 details eight specific questions to be studied and reported by the Committee. Five of these questions deal with balancing secrecy and openness.

Members of the Committee may differ on how to strike the correct balance, but there is full agreement on the need for such a balance to be achieved.

Because this kind of balance is so important to our country—to its national security and our individual freedoms—my motion proposed that the House Intelligence Committee take only the first step toward the disclosure of the intelligence community's budget figure. I proposed that collective judgement of the House and Senate be the final judgement on the question of disclosures.

The House Intelligence Committee rules require that the Committee must first vote to disclose the NFIP budget figure since it is a classified figure based on classified data.

If the Committee had voted to disclose the figure, notice of such action would have been sent to the President. He then would have had five days to object.

If the President had not objected—and in this case Admiral Turner's letter leads me to believe that he would not have—the House Intelligence Committee, under the rules, could then have disclosed the figure in question. However, neither the Committee nor the House rules specify the means and time for making such a disclosure.

So, if the procedure had reached this stage, it would have been my intention to introduce a Concurrent Resolution providing that the total NFIP budget be published in the "Congressional Record" the first legislative day after the President signed the relevant appropriations bill.

That Resolution would have had to be reported favorably by the House Intelligence Committee. Then it would have had to proceed through the normal House and Senate process leading to a final vote in both chambers. Only if these votes were favorable would the NFIP budget figure have been revealed.

Also, it is worth mentioning, that I would have wanted only to disclose the FY 1980 appropriations. Before any further disclosures would have been made, Congress would have had the opportunity to

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study the effect of last year's disclosures. If disclosure had caused problems, steps could have been taken to end further disclosure.

In any event, my Committee colleagues have decided against my proposal. I thank them for their thoughtful and conscientious debate on the question which was, fittingly, conducted by our Committee in open session.

It is my intention to submit my proposal once again next year when the distinguished House Committee on Intelligence—on which I am privileged to serve—takes up the FY 1981 budget for the nation's intelligence activities.

○ ROMANO L. MAZZOLI.